

1 NICOLA T. HANNA  
United States Attorney  
2 LAWRENCE S. MIDDLETON  
Assistant United States Attorney  
3 Chief, Criminal Division  
JOSEPH B. WIDMAN  
4 Assistant United States Attorney  
Chief, Riverside Branch Office  
5 ABIGAIL EVANS (Cal. Bar No. 249629)  
Assistant United States Attorney  
6 Riverside Branch Office  
3403 Tenth Street, Suite 200  
7 Riverside, California 92501  
Telephone: (951) 276-6086  
8 Facsimile: (951) 276-6202  
E-mail: abigail.evans@usdoj.gov  
9

Attorneys for Plaintiff  
10 UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 JAMES RAY WALLIS III and  
HECTOR GALLEGOS,

17 Defendants.  
18

No. ED CR 17-040-JGB-1

PLEA AGREEMENT FOR DEFENDANT  
JAMES RAY WALLIS

19 1. This constitutes the plea agreement between JAMES RAY  
20 WALLIS III ("defendant") and the United States Attorney's Office for  
21 the Central District of California (the "USAO") in the above-  
22 captioned case. This agreement is limited to the USAO and cannot  
23 bind any other federal, state, local, or foreign prosecuting,  
24 enforcement, administrative, or regulatory authorities.

25 DEFENDANT'S OBLIGATIONS

26 2. Defendant agrees to:

27 a. At the earliest opportunity requested by the USAO and  
28 provided by the Court, appear and plead guilty to Counts Three and

Count Four of the indictment in United States v. James Ray Wallis III, ED CR No. 17-040-JGB. Count Three charges defendant with knowingly and intentionally creating a substantial risk of harm to human life while manufacturing and attempting to manufacture hashish oil containing tetrahydrocannabinol, in violation of 21 U.S.C. §§ 858, 841(a)(1), (b)(1)(D). Count Four charges defendant with possession of firearms after being convicted of a misdemeanor crime of domestic violence, in violation of 18 U.S.C. § 922(g)(9).

b. Not contest facts agreed to in this agreement.

c. Abide by all agreements regarding sentencing contained in this agreement.

d. Appear for all court appearances, surrender as ordered for service of sentence, obey all conditions of any bond, and obey any other ongoing court order in this matter.

e. Not commit any crime; however, offenses that would be excluded for sentencing purposes under United States Sentencing Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not within the scope of this agreement.

f. Be truthful at all times with Pretrial Services, the United States Probation Office, and the Court.

g. Pay the applicable special assessments at or before the time of sentencing unless defendant lacks the ability to pay and prior to sentencing submits a completed financial statement on a form to be provided by the USAO.

#### THE USAO'S OBLIGATIONS

3. The USAO agrees to:

a. Not contest facts agreed to in this agreement.

1           b. Abide by all agreements regarding sentencing contained  
2 in this agreement.

3           c. At the time of sentencing, move to dismiss the  
4 remaining counts of the indictment as against defendant. Defendant  
5 agrees, however, that at the time of sentencing the Court may  
6 consider any dismissed charges in determining the applicable  
7 Sentencing Guidelines range, the propriety and extent of any  
8 departure from that range, and the sentence to be imposed.

9           d. At the time of sentencing, provided that defendant  
10 demonstrates an acceptance of responsibility for the offense up to  
11 and including the time of sentencing, recommend a two-level reduction  
12 in the applicable Sentencing Guidelines offense level, pursuant to  
13 U.S.S.G. § 3E1.1, and recommend and, if necessary, move for an  
14 additional one-level reduction if available under that section.

15           e. Recommend that defendant be sentenced to a term of  
16 imprisonment no higher than the low end of the applicable Sentencing  
17 Guidelines range, provided that the offense level used by the Court  
18 to determine that range is 24 or higher and provided that the Court  
19 does not depart downward in offense level or criminal history  
20 category. For purposes of this agreement, the low end of the  
21 Sentencing Guidelines range is that defined by the Sentencing Table  
22 in U.S.S.G. Chapter 5, Part A.

23                           NATURE OF THE OFFENSES

24           4. Defendant understands that for defendant to be guilty of  
25 the crime charged in Count Three of the indictment, that is,  
26 knowingly and intentionally creating a substantial risk of harm to  
27 human life while manufacturing and attempting to manufacture hashish  
28 oil containing tetrahydrocannabinol, in violation of Title 21, United

1 States Code, Sections 858, 841(a)(1), (b)(1)(D), the following must  
2 be true: (1) the defendant knowingly manufactured or intended to  
3 manufacture hashish oil containing tetrahydrocannabinol; and  
4 (2) while manufacturing hashish oil containing tetrahydrocannabinol,  
5 defendant knowingly and intentionally created a substantial risk of  
6 harm to human life.

7 5. Defendant understands that for defendant to be guilty of  
8 the crime charged in Count Four of the indictment, that is,  
9 possession of firearms after being convicted of a misdemeanor crime  
10 of domestic violence, in violation of 18 U.S.C. 922(g)(9), the  
11 following must be true: (1) defendant knowingly possessed firearms;  
12 (2) the firearms had been transported from one state to another; and  
13 (3) at the time the defendant possessed the firearms, he had been  
14 convicted of a misdemeanor domestic violence offense.

15 PENALTIES

16 6. Defendant understands that the statutory maximum sentence  
17 that the Court can impose for a violation of Title 21, United States  
18 Code, Sections 858, 841(a)(1), (b)(1)(D) is: ten years imprisonment;  
19 a lifetime period of supervised release; a fine of \$250,000 or twice  
20 the gross gain or gross loss resulting from the offense, whichever is  
21 greatest; and a mandatory special assessment of \$100.

22 7. Defendant understands that the statutory maximum sentence  
23 that the Court can impose for a violation of Title 18, United States  
24 Code, Section 922(g)(9) is: ten years imprisonment; a three-year  
25 period of supervised release; a fine of \$250,000 or twice the gross  
26 gain or gross loss resulting from the offense, whichever is greatest;  
27 and a mandatory special assessment of \$100.

1        8. Defendant understands, therefore, that the total maximum  
2 sentence for all offenses to which defendant is pleading guilty is:  
3 20 years imprisonment; a lifetime period of supervised release; a  
4 fine of \$500,000 or twice the gross gain or gross loss resulting from  
5 the offenses, whichever is greatest; and a mandatory special  
6 assessment of \$200.

7        9. Defendant understands that supervised release is a period  
8 of time following imprisonment during which defendant will be subject  
9 to various restrictions and requirements. Defendant understands that  
10 if defendant violates one or more of the conditions of any supervised  
11 release imposed, defendant may be returned to prison for all or part  
12 of the term of supervised release authorized by statute for the  
13 offense that resulted in the term of supervised release, which could  
14 result in defendant serving a total term of imprisonment greater than  
15 the statutory maximum stated above.

16       10. Defendant understands that under 21 U.S.C. § 862a,  
17 defendant will not be eligible for assistance under state programs  
18 funded under the Social Security Act or Federal Food Stamp Act or for  
19 federal food stamp program benefits, and that any such benefits or  
20 assistance received by defendant's family members will be reduced to  
21 reflect defendant's ineligibility.

22       11. Defendant understands that, by pleading guilty, defendant  
23 may be giving up valuable government benefits and valuable civic  
24 rights, such as the right to vote, the right to possess a firearm,  
25 the right to hold office, and the right to serve on a jury.  
26 Defendant understands that once the court accepts defendant's guilty  
27 plea, it will be a federal felony for defendant to possess a firearm  
28 or ammunition. Defendant understands that the conviction in this

1 case may also subject defendant to various other collateral  
2 consequences, including but not limited to revocation of probation,  
3 parole, or supervised release in another case and suspension or  
4 revocation of a professional license. Defendant understands that  
5 unanticipated collateral consequences will not serve as grounds to  
6 withdraw defendant's guilty plea.

7 12. Defendant understands that, if defendant is not a United  
8 States citizen, the felony conviction in this case may subject  
9 defendant to: removal, also known as deportation, which may, under  
10 some circumstances, be mandatory; denial of citizenship; and denial  
11 of admission to the United States in the future. The court cannot,  
12 and defendant's attorney also may not be able to, advise defendant  
13 fully regarding the immigration consequences of the felony conviction  
14 in this case. Defendant understands that unexpected immigration  
15 consequences will not serve as grounds to withdraw defendant's guilty  
16 plea.

17 FACTUAL BASIS

18 13. Defendant admits that defendant is, in fact, guilty of the  
19 offenses to which defendant is agreeing to plead guilty. Defendant  
20 and the USAO agree to the statement of facts provided below and agree  
21 that this statement of facts is sufficient to support a plea of  
22 guilty to the charges described in this agreement and to establish  
23 the Sentencing Guidelines factors set forth in paragraph 15 below but  
24 is not meant to be a complete recitation of all facts relevant to the  
25 underlying criminal conduct or all facts known to either party that  
26 relate to that conduct.

27 On or about February 16, 2017, at his residence in Cherry  
28 Valley, California, in Riverside County within the Central District

1 of California, defendant and co-defendant Hector Gallegos  
2 ("Gallegos") were manufacturing hashish oil containing  
3 tetrahydrocannabinol, a Schedule I controlled substance. During the  
4 course of the defendant and Gallegos's manufacturing of the hashish  
5 oil, the equipment being used to manufacture the hashish oil caused  
6 an explosion, resulting in the ignition of a fire in the residence.  
7 At the time of the explosion, defendant's ten-year-old son was  
8 present in the residence. Fire department personnel responded to the  
9 scene, but were impeded in their efforts to extinguish the fire, due  
10 to a high volume of flammable butane canisters and ammunition in  
11 various locations in the residence.

12 Gallegos sustained severe burns to his body, and was transported  
13 to the hospital for treatment. The residence sustained significant  
14 damage as a result of the explosion and fire. After the fire was  
15 extinguished, law enforcement officers found functioning hashish oil  
16 extraction equipment, including over 2,000 20-ounce flammable butane  
17 canisters, along with 2.174 kilograms of hashish oil and 72.45  
18 kilograms of marijuana, in defendant's residence. Also found in the  
19 residence were three Ruger 10/22, .22 caliber rifles, bearing serial  
20 numbers 820-16246, 127-91115, and 353-57309; an HS Products, model  
21 XD45, .45 caliber pistol, bearing serial number XD663858; and a  
22 Glock, model 30, .45 caliber pistol, bearing serial number TMV721  
23 (collectively, the "firearms"), as well as multiple rounds of  
24 ammunition.

25 Defendant fled his residence after fire department personnel  
26 arrived at the scene, but before law enforcement personnel arrived.  
27 Defendant remained a fugitive until he was arrested approximately  
28



four months later, on June 8, 2017 at a residence in Morongo Valley, California, where he was manufacturing hashish oil.

Defendant admits that he possessed the firearms and ammunition, knowing that he was legally prohibited from possessing them, because on May 11, 2009, he was convicted of Domestic Violence Battery, in violation of California Penal Code Section 243(e)(1), in the Superior Court of the State of California, County of Orange, case number 09NE0427.

#### SENTENCING FACTORS

14. Defendant understands that in determining defendant's sentence the Court is required to calculate the applicable Sentencing Guidelines range and to consider that range, possible departures under the Sentencing Guidelines, and the other sentencing factors set forth in 18 U.S.C. § 3553(a). Defendant understands that the Sentencing Guidelines are advisory only, that defendant cannot have any expectation of receiving a sentence within the calculated Sentencing Guidelines range, and that after considering the Sentencing Guidelines and the other § 3553(a) factors, the Court will be free to exercise its discretion to impose any sentence it finds appropriate up to the maximum set by statute for the crime of conviction.

15. Defendant and the USAO agree to the following applicable Sentencing Guidelines factors for Count Three:

Base Offense Level:	24	U.S.S.G. § 2D1.1(c)(8)
Endangering Human Life While Manufacturing a Controlled Substance	+3	U.S.S.G. § 2D1.10(a)(1)

Defendant and the USAO agree to the following applicable Sentencing Guidelines factors for Count Four:



1	Base Offense Level:	14	U.S.S.G. § 2K2.1(a)(6)(A)
2	Specific Offense	+2	U.S.S.G. § 2K2.1(b)(1)(a)
3	Characteristic		
	[3-7 Firearms]		
4	Possession in connection	+4	U.S.S.G. § 2K2.2(b)(6)(B)
5	with another felony offense		

6 Defendant and the USAO reserve the right to argue that additional  
7 specific offense characteristics, adjustments, and departures under  
8 the Sentencing Guidelines are appropriate. The base offense level  
9 set forth above is based on information currently known to the  
10 government regarding defendant's criminal history. Defendant  
11 understands and agrees that defendant's base offense level could be  
12 increased if defendant is a career offender under U.S.S.G. §§ 4B1.1  
13 and 4B1.2 or an armed career criminal under U.S.S.G. §§ 4B1.4 and 18  
14 U.S.C. § 924(e), or if defendant has additional prior conviction(s)  
15 for either a crime of violence or a controlled substance offense  
16 under U.S.S.G. § 2K2.1. If defendant's base offense level is so  
17 altered, defendant and the USAO will not be bound by the base offense  
18 level agreed to above.

19 16. Defendant understands that there is no agreement as to  
20 defendant's criminal history or criminal history category.

21 17. Defendant and the USAO reserve the right to argue for a  
22 sentence outside the sentencing range established by the Sentencing  
23 Guidelines based on the factors set forth in 18 U.S.C. § 3553(a)(1),  
24 (a)(2), (a)(3), (a)(6), and (a)(7).

#### 25 WAIVER OF CONSTITUTIONAL RIGHTS

26 18. Defendant understands that by pleading guilty, defendant  
27 gives up the following rights:

28 a. The right to persist in a plea of not guilty.

1           b.    The right to a speedy and public trial by jury.

2           c.    The right to be represented by counsel -- and if  
3 necessary have the court appoint counsel -- at trial. Defendant  
4 understands, however, that, defendant retains the right to be  
5 represented by counsel -- and if necessary have the court appoint  
6 counsel -- at every other stage of the proceeding.

7           d.    The right to be presumed innocent and to have the  
8 burden of proof placed on the government to prove defendant guilty  
9 beyond a reasonable doubt.

10          e.    The right to confront and cross-examine witnesses  
11 against defendant.

12          f.    The right to testify and to present evidence in  
13 opposition to the charges, including the right to compel the  
14 attendance of witnesses to testify.

15          g.    The right not to be compelled to testify, and, if  
16 defendant chose not to testify or present evidence, to have that  
17 choice not be used against defendant.

18          h.    Any and all rights to pursue any affirmative defenses,  
19 Fourth Amendment or Fifth Amendment claims, and other pretrial  
20 motions that have been filed or could be filed.

21                   WAIVER OF APPEAL OF CONVICTION

22          19. Defendant understands that, with the exception of an appeal  
23 based on a claim that defendant's guilty plea was involuntary, by  
24 pleading guilty defendant is waiving and giving up any right to  
25 appeal defendant's conviction on the offense to which defendant is  
26 pleading guilty.

1                    LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

2            20. Defendant agrees that, provided the Court imposes a total  
3 term of imprisonment on all counts of conviction of no more than 63  
4 months, defendant gives up the right to appeal all of the following:

5 (a) the procedures and calculations used to determine and impose any  
6 portion of the sentence; (b) the term of imprisonment imposed by the  
7 Court; (c) the fine imposed by the court, provided it is within the  
8 statutory maximum; (d) the term of probation or supervised release  
9 imposed by the Court, provided it is within the statutory maximum;  
10 and (e) any of the following conditions of probation or supervised  
11 release imposed by the Court: the conditions set forth in General  
12 Orders 318, 01-05, and/or 05-02 of this Court; the drug testing  
13 conditions mandated by 18 U.S.C. §§ 3563(a)(5) and 3583(d); and the  
14 alcohol and drug use conditions authorized by 18 U.S.C. § 3563(b)(7).

15            21. Defendant also gives up any right to bring a post-  
16 conviction collateral attack on the conviction or sentence, except a  
17 post-conviction collateral attack based on a claim of ineffective  
18 assistance of counsel, a claim of newly discovered evidence, or an  
19 explicitly retroactive change in the applicable Sentencing  
20 Guidelines, sentencing statutes, or statutes of conviction.

21            22. The USAO agrees that, provided (a) all portions of the  
22 sentence are at or below the statutory maximum specified above and  
23 (b) the Court imposes a term of imprisonment of no less than 51  
24 months, the USAO gives up its right to appeal any portion of the  
25 sentence.

26                    RESULT OF WITHDRAWAL OF GUILTY PLEA

27            23. Defendant agrees that if, after entering a guilty plea  
28 pursuant to this agreement, defendant seeks to withdraw and succeeds

1 in withdrawing defendant's guilty plea on any basis other than a  
2 claim and finding that entry into this plea agreement was  
3 involuntary, then the USAO will be relieved of all of its obligations  
4 under this agreement.

5 EFFECTIVE DATE OF AGREEMENT

6 24. This agreement is effective upon signature and execution of  
7 all required certifications by defendant, defendant's counsel, and an  
8 Assistant United States Attorney.

9 BREACH OF AGREEMENT

10 25. Defendant agrees that if defendant, at any time after the  
11 signature of this agreement and execution of all required  
12 certifications by defendant, defendant's counsel, and an Assistant  
13 United States Attorney, knowingly violates or fails to perform any of  
14 defendant's obligations under this agreement ("a breach"), the USAO  
15 may declare this agreement breached. All of defendant's obligations  
16 are material, a single breach of this agreement is sufficient for the  
17 USAO to declare a breach, and defendant shall not be deemed to have  
18 cured a breach without the express agreement of the USAO in writing.  
19 If the USAO declares this agreement breached, and the Court finds  
20 such a breach to have occurred, then: (a) if defendant has previously  
21 entered a guilty plea pursuant to this agreement, defendant will not  
22 be able to withdraw the guilty plea, and (b) the USAO will be  
23 relieved of all its obligations under this agreement.

24 COURT AND PROBATION OFFICE NOT PARTIES

25 26. Defendant understands that the Court and the United States  
26 Probation Office are not parties to this agreement and need not  
27 accept any of the USAO's sentencing recommendations or the parties'  
28 agreements to facts or sentencing factors.

1        27. Defendant understands that both defendant and the USAO are  
2 free to: (a) supplement the facts by supplying relevant information  
3 to the United States Probation Office and the Court, (b) correct any  
4 and all factual misstatements relating to the Court's Sentencing  
5 Guidelines calculations and determination of sentence, and (c) argue  
6 on appeal and collateral review that the Court's Sentencing  
7 Guidelines calculations and the sentence it chooses to impose are not  
8 error, although each party agrees to maintain its view that the  
9 calculations in paragraph 14 are consistent with the facts of this  
10 case. While this paragraph permits both the USAO and defendant to  
11 submit full and complete factual information to the United States  
12 Probation Office and the Court, even if that factual information may  
13 be viewed as inconsistent with the facts agreed to in this agreement,  
14 this paragraph does not affect defendant's and the USAO's obligations  
15 not to contest the facts agreed to in this agreement.

16        28. Defendant understands that even if the Court ignores any  
17 sentencing recommendation, finds facts or reaches conclusions  
18 different from those agreed to, and/or imposes any sentence up to the  
19 maximum established by statute, defendant cannot, for that reason,  
20 withdraw defendant's guilty plea, and defendant will remain bound to  
21 fulfill all defendant's obligations under this agreement. Defendant  
22 understands that no one -- not the prosecutor, defendant's attorney,  
23 or the Court -- can make a binding prediction or promise regarding  
24 the sentence defendant will receive, except that it will be within  
25 the statutory maximum.

26                    NO ADDITIONAL AGREEMENTS

27        29. Defendant understands that, except as set forth herein,  
28 there are no promises, understandings, or agreements between the USAO

1 and defendant or defendant's attorney, and that no additional  
 2 promise, understanding, or agreement may be entered into unless in a  
 3 writing signed by all parties or on the record in court.

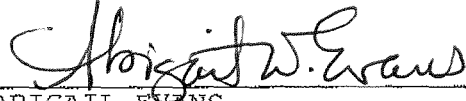
4 PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

5 30. The parties agree that this agreement will be considered  
 6 part of the record of defendant's guilty plea hearing as if the  
 7 entire agreement had been read into the record of the proceeding.

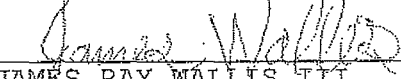
8 AGREED AND ACCEPTED

9 UNITED STATES ATTORNEY'S OFFICE  
 10 FOR THE CENTRAL DISTRICT OF  
 CALIFORNIA

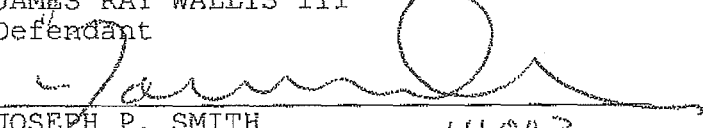
11 NICOLA T. HANNA  
 12 United States Attorney

13   
 14 ABIGAIL EVANS  
 15 Assistant United States Attorney

3/5/18  
 Date

16   
 17 JAMES RAY WALLIS III  
 18 Defendant

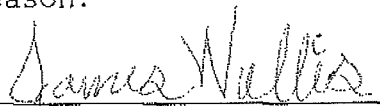
2-26-18  
 Date

19   
 20 JOSEPH P. SMITH  
 21 Attorney for Defendant  
 22 James Ray Wallis III

2-26-18  
 Date

CERTIFICATION OF DEFENDANT

I have read this agreement in its entirety. I have had enough time to review and consider this agreement, and I have carefully and thoroughly discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. I have discussed the evidence with my attorney, and my attorney has advised me of my rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. No promises, inducements, or representations of any kind have been made to me other than those contained in this agreement. No one has threatened or forced me in any way to enter into this agreement. I am satisfied with the representation of my attorney in this matter, and I am pleading guilty because I am guilty of the charges and wish to take advantage of the promises set forth in this agreement, and not for any other reason.

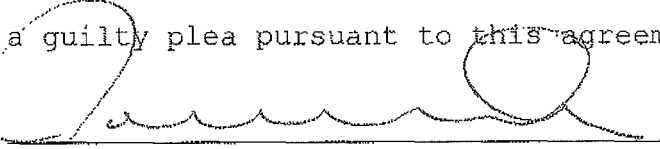
  
JAMES RAY WALLIS, III  
Defendant

2-26-18  
Date



CERTIFICATION OF DEFENDANT'S ATTORNEY

I am James Ray Wallis III's attorney. I have carefully and thoroughly discussed every part of this agreement with my client. Further, I have fully advised my client of his rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. To my knowledge: no promises, inducements, or representations of any kind have been made to my client other than those contained in this agreement; no one has threatened or forced my client in any way to enter into this agreement; my client's decision to enter into this agreement is an informed and voluntary one; and the factual basis set forth in this agreement is sufficient to support my client's entry of a guilty plea pursuant to this agreement.

  
JOSEPH P. SMITH      111 003  
Attorney for Defendant  
James Ray Wallis III

2-26-18  
Date